

TENNESSEE REGULATORY AUTHORITY

Tre Hargett, Chairman
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Nashville, Tennessee 37243-0505

Before the Federal Communications Commission Washington D.C.

In the Matter of

High Cost Universal Service Support)	WC Docket No. 05-337
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link Up)	WC Docket No. 03-109
)	
Universal Service Contribution Methodology)	WC Docket No. 06-122
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Implementation of the Local Competition)	
Provisions of the Telecommunications Act of 1996)	CC Docket No. 96-98
)	
Developing a Unified Inter-carrier Compensation)	
Regime)	CC Docket No. 01-92
)	
Inter-carrier Compensation for ISP-Bound Traffic)	CC Docket No. 99-68
)	
IP-Enabled Services)	WC Docket No. 04-36

Comments of the Tennessee Regulatory Authority

In our letter dated October 24, 2008, the Tennessee Regulatory Authority ("TRA") urged the Federal Communications Commission ("FCC") to postpone consideration of a reform proposal for the intercarrier compensation system and universal service program until the proposal was subject to public review and comment. The FCC issued its Order on Remand and Report and Order and Further Notice of Proposed Rulemaking ("*Further Notice*") addressing intercarrier compensation and universal service on November 5, 2008.

The TRA appreciates the opportunity to comment on the substance of the FCC's *Further Notice*. Unfortunately, the comment cycle established by the FCC provides insufficient time for substantive review and analysis of the two competing comprehensive reform proposals and the narrow universal service reform proposal contained in the *Further Notice*. Given that the FCC addressed the issue of the treatment of ISP-bound traffic in the *Further Notice*, there is no time constraint that requires the short comment period. The TRA respectfully suggests that the FCC extend to comment period in this proceeding to allow for state commissions to perform the detailed financial, economic and legal analysis necessary to discover how its small rural carriers will be impacted by the various proposals contained in the *Further Notice*.

While detailed financial and economic analysis is not feasible in the time frame allowed by the FCC, our basic analysis shows that the reduction in terminating intrastate access rates resulting from adoption of either of the comprehensive reform proposals leads to a significant revenue reduction for many of our small rural carriers. It is unclear how rural phone companies will replace lost revenues. The *Further Notice* limits recovery of lost intrastate revenues through the subscriber line charge (“SLC”) only after state retail rates and any intrastate SLC are “set at the maximum level permitted under state regulation.”¹ The likely impact of adoption of either of the reform proposals in the *Further Notice* is that rural telephone companies may experience revenue shortfalls as affordability or competitive concerns limit the amount that local rates can be increased. Consumers will likely face higher rates for local service. The TRA does not believe that these proposals benefit our rural consumers and telephone providers.

The FCC provides for a ten-year transition plan from the existing intercarrier compensation system. The TRA is concerned that the majority of the revenue reductions from the reform proposal occur within the first four years of the ten-year transition period. The comprehensive reform proposals in the *Further Notice* require broadband build-out as a precondition to receipt of universal service funding during the same time period when changes to the intercarrier compensation are decreasing revenue streams necessary to finance network expansion. The TRA is concerned that rural carriers may be placed in financial distress by the required expansion of broadband infrastructure while funds available for investment are decreasing.

While the TRA is concerned about the potential impact the *Further Notice* on rural consumers and providers, we are also concerned about the legal theories underlying the reform proposals. The TRA supports the comments and positions of NARUC that state commissions should retain jurisdiction over intrastate access rates.

In sum, the TRA urges the FCC to extend the comment period to allow for a thorough vetting of the reform proposals in the *Further Notice*. The TRA understands the need for comprehensive reform of intercarrier compensation and universal service. Unfortunately, the comprehensive proposals offered in the *Further Notice* place our rural consumers and rural telephone companies in a worse financial position than they are today. The proposal will threaten the ability of rural carriers to tap financial markets to

¹ *Further Notice* at Appendix C, Paragraph 294.

finance the required broadband build-out by thinning their revenue streams. Consumers will likely face higher rates for local service at a time when employment is uncertain and household income is not growing. Compounding the adverse impact of the proposals in the *Further Notice* is that they affect the most vulnerable areas of our state, the rural areas.

Dated: November 26, 2008

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tre Hargett", written in a cursive style.

Tre Hargett
Chairman, Tennessee Regulatory Authority